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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 SHERRI L. DEEM, individually and as  
9 Personal Representative of the estate of  
10 THOMAS A. DEEM, deceased,

11 Plaintiff,

12 v.

13 AIR & LIQUID SYSTEMS  
14 CORPORATION, et al.,

15 Defendants.

CASE NO. C17-5965 BHS

ORDER GRANTING  
DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT,  
DENYING PLAINTIFF'S MOTION  
FOR CONSOLIDATED TRIAL,  
DENYING OTHER MOTIONS AS  
MOOT, AND SETTING  
DEADLINE FOR RESPONSES

16 This matter comes before the Court on Defendant John Crane, Inc.'s ("Crane")  
17 motions for summary judgment, Dkts. 72, 263, and motion to dismiss, Dkt. 372, Plaintiff  
18 Sherri Deem's, individually and as Personal Representative of the Estate of Thomas  
19 Deem ("Deem") motion for partial summary judgment on Crane's affirmative defenses,  
20 Dkt. 245, motion for extension of time to respond to dispositive motions, Dkt. 274,  
21 renewed motion for consolidated trial, Dkt. 340, and motion for leave to file  
22 supplemental briefing re maritime law, Dkt. 377. The Court has considered the pleadings  
filed in support of and in opposition to the motions and the remainder of the file and  
hereby rules as follows:

## I. PROCEDURAL HISTORY

On November 20, 2017, Deem filed a complaint against Defendants Air & Liquid Systems Corporation, CBS Corporation (“CBS”), Crane Co., Foster-Wheeler Energy Corporation (“Foster-Wheeler”), General Electric Company (“General Electric”), IMO Industries, Inc., and Warren Pumps, LLC. Dkt. 1 (“*Deem 1*”).

On June 28, 2018, Deem filed a second complaint against Defendants Anchor/Darling Valve Company, BW/IP, Inc., Blackmer Pump Company, Clark-Reliance Corporation, Cleaver-Brooks, Inc., Crosby Valve, LLC (“Crosby”), Flowserve Corporation, Flowserve US, Inc., FMC Corporation (“FMC”), Gardner Denver, Inc., Goulds Pumps, Inc., Grinnell, LLC, Hopeman Brothers, Inc., ITT, LLC, Ingersoll-Rand Company, Jerguson Gage & Valve, John Crane, Inc. (“Crane”), McNally Industries, LLC (“McNalley”), Velan Valve Corp., Viad Corp., Viking Pump, Inc., Weir Valves & Controls USA, Inc., and The WM Powell Company. C18-5527-BHS, Dkt. 1 (“*Deem 2*”).

On December 13, 2018, the Court granted in part and denied in part Deem’s motion to consolidate the cases. Dkt. 52. The Court consolidated the cases through “disposition of summary judgment or such other time prior to trial as the Court deems appropriate” and denied the motion as to the request to consolidate them for trial. *Id.* at 2.

On March 7, 2019, Crane filed a motion for summary judgment arguing that under Washington law Deem failed to meet her burden to establish that Thomas Deem was exposed to any Crane product. Dkt. 72. On March 25, 2019, Deem responded. Dkt. 87. On March 29, 2019, Crane replied. Dkt. 94.

1 On February 27, 2019, FMC and McNalley filed a motion for summary judgment  
2 arguing that Deem's claim for wrongful death under Washington law was barred by the  
3 statute of limitations. Dkt. 69. On March 26, 2019, Crane joined in the motion. Dkt. 91.  
4 On April 25, 2019, the Court granted the motion and dismissed Deem's Washington law  
5 claim against multiple defendants, including Crane. Dkt. 105.

6 On July 11, 2019, Deem filed a motion for partial summary judgment on some of  
7 Crane's affirmative defenses, Dkt. 245, and Crane filed a second motion for summary  
8 judgment arguing in part that Deem's maritime claims were barred by the statute of  
9 limitations, Dkt. 263 at 10–11. On July 24, 2019, Deem filed a motion for extension of  
10 time to respond to Crane's motion. Dkt. 274. On July 29, 2019, the parties responded to  
11 the dispositive motions. Dkts. 279, 303. On August 2, 2019, Crane replied. Dkt. 318.

12 On August 6, 2019, the Court granted Deem's motion to apply maritime law and  
13 granted Deem leave to file an amended complaint to clarify her claims. Dkt. 331. On  
14 August 16, 2019, Deem filed amended complaints in both cases. *Deem 1*, Dkt. 341;  
15 *Deem 2*, Dkt. 92. On August 19, 2019, the Court struck the amended complaint in *Deem*  
16 *1* because only *Deem 2* defendants moved to dismiss her complaint. Dkt. 341.

17 On August 15, 2019, Deem filed the instant renewed motion for consolidated trial.  
18 Dkt. 340. On August 20, 2019, CBS, Foster-Wheeler, and General Electric responded.  
19 Dkt. 343.

20 On August 16, 2019, Deem filed an amended complaint asserting claims for  
21 wrongful death under maritime law. *Deem 2*, Dkt. 92.

1 On August 29, 2019, Crosby filed a motion to dismiss Deem's amended complaint  
2 arguing in part that Deem's maritime claims are barred by the statute of limitations. Dkt.  
3 371. On December 6, 2019, the Court granted Crosby's motion concluding that the  
4 claims are untimely. Dkt. 415.

## 5 II. DISCUSSION

### 6 A. Summary Judgment

7 For the reasons set forth in the Court's previous order, Dkt. 415, the Court grants  
8 Crane's motion for summary judgment on the issue of the statute of limitations. In short,  
9 Deem had three years from the date she was aware of the injury to her husband, Thomas  
10 Deem, to file suit. She failed to do so. Therefore, her claims against Crane are time-  
11 barred.

### 12 B. Motion to Consolidate

13 If actions before the court involve a common question of law or fact, the court  
14 may consolidate the matters for trial. Fed. R. Civ. P. 42(a).

15 Although the Court agrees with Deem that the actions involve numerous common  
16 questions of law and fact, a dispositive issue present in *Deem 2* is not present in *Deem 1*.  
17 As stated in the Court's recent order, Deem's claims under maritime law in *Deem 2* are  
18 barred by the statute of limitations. The presence of this issue is sufficient to warrant  
19 denial of Deem's motion to consolidate timely claims with untimely claims. In fact, it  
20 appears that this is the appropriate time to vacate the consolidation order, strike the trial  
21 date in *Deem 2*, and set a dispositive motion deadline to address the statute of limitations  
22 issue with the remaining defendants in *Deem 2*. The Court, however, declines to do so

1 *sua sponte* without providing the parties notice and an opportunity to be heard. Thus, the  
2 Court will set a deadline for any response to the Court's plan.

### 3 **III. ORDER**

4 Therefore, it is hereby **ORDERED** Crane's motion for summary judgment, Dkt.  
5 263, is **GRANTED**, Deem's renewed motion for consolidated trial, Dkt. 340, is  
6 **DENIED**, and Crane's motion for summary judgment, Dkt. 72, motion to dismiss, Dkt.  
7 372, and Deem's motion for partial summary judgment on Crane's affirmative defenses,  
8 Dkt. 245, motion for extension of time to respond to dispositive motions, Dkt. 274, and  
9 motion for leave to file supplemental briefing re maritime law, Dkt. 377, are **DENIED as**  
10 **moot**. The Clerk shall terminate Crane as a defendant.

11 The Court intends to vacate the previous order consolidating the matters, Dkt. 52,  
12 strike any trial date in *Deem 2*, and set a dispositive motion deadline in *Deem 2* to address  
13 the issue of statute of limitations. Any party may respond to this plan no later than  
14 January 8, 2020.

15 Dated this 2nd day of January, 2020.

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18 BENJAMIN H. SETTLE  
19 United States District Judge  
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